

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

UNITED STATES OF AMERICA,)
)
 Petitioner,)
)
 v.)
)
 JOSEPH R. DELFGAUW,)
)
 Respondent.)

Case: 2:09-mc-51387
Judge: Battani, Marianne O
MJ: Komives, Paul J
Filed: 12-07-2009 At 10:33 AM
PET ENFORCE: USA V. JOSEPH DELFGAUW
(KB)

PETITION TO ENFORCE INTERNAL REVENUE SERVICE SUMMONS

The United States of America, on behalf of its agency, the Internal Revenue Service, by the undersigned Assistant United States Attorney, avers to this Court as follows:

1. This is a proceeding brought pursuant to the provisions of sections 7402(b) and 7604(a) of the Internal Revenue Code of 1986, 26 U.S.C. §§ 7402(b) and 7604(a), to judicially enforce an Internal Revenue Service summons.

2. Dorothy Miller is a duly commissioned Revenue Officer employed in the office of the Area Director, Small Business/Self-Employed Compliance, Internal Revenue Service and is authorized to issue an Internal Revenue Service summons pursuant to the authority contained in Section 7602 of Title 26 U.S.C., and Treasury Regulation Section 301.7602-1, 26 C.F.R. § 301.7602-1.

3. The respondent, Joseph R. Delfgauw, resides at 600 Nairn Circle, Highland, Michigan 48357, which is within the jurisdiction of this Court.

4. Revenue Officer Dorothy Miller is conducting an investigation into the collection of the tax liability of Joseph R. Delfgauw for the taxable year ending December 31, 2004, as set forth in the Declaration of Revenue Officer Dorothy Miller attached hereto as Exhibit A.

5. The respondent, Joseph R. Delfgauw, is in possession and control of testimony, books, records, papers, and other data which are relevant to the above-described investigation.

6. On May 21, 2009, an Internal Revenue Service summons was issued by Revenue Officer Dorothy Miller directing the respondent, Joseph R. Delfgauw, to appear before Revenue Officer Dorothy Miller on June 18, 2009, at 9:00 AM to testify and to produce the books, records, and other documents demanded in the summons. An attested copy of the summons was served on the respondent, Joseph R. Delfgauw, by personal delivery on May 22, 2009, as evidenced in the certificate of service on the reverse side of the summons. The summons is attached hereto and incorporated herein as Exhibit B.

7. On June 18, 2009, the respondent, Joseph R. Delfgauw, did not appear in response to the summons. To date, the respondent has refused to comply with the summons.

8. On July 10, 2009, a letter was sent to the respondent, Joseph R. Delfgauw, by the Associate Area Counsel of the Internal Revenue Service, scheduling an appointment for August 4, 2009, at 9:00 AM, to give testimony and produce for examination books,

papers, records, or other data as described in said summons. This letter is attached hereto as Exhibit C. On August 4, 2009, the respondent did not appear. The respondent's refusal to comply with the summons continues to date as set forth in the Declaration of Revenue Officer Dorothy Miller attached hereto as Exhibit A.

9. The books, papers, records, or other data sought by the summons are not already in possession of the Internal Revenue Service.

10. All administrative steps required by the Internal Revenue Code for the issuance of a summons have been taken.

11. It is necessary to obtain the testimony and examine the books, papers, records, or other data sought by the summons in order to properly investigate the collection of the tax liability of Joseph R. Delfgauw for the taxable year ending December 31, 2004, as is evidenced by the Declaration of Revenue Officer Dorothy Miller attached hereto and incorporated herein as part of this petition.

WHEREFORE, petitioner respectfully prays:

1. That the Court issue an order directing the respondent, Joseph R. Delfgauw, to show cause, if any, why respondent should not comply with and obey the aforementioned summons and each and every requirement thereof.

2. That the Court enter an order directing the respondent, Joseph R. Delfgauw, to obey the aforementioned summons and each and

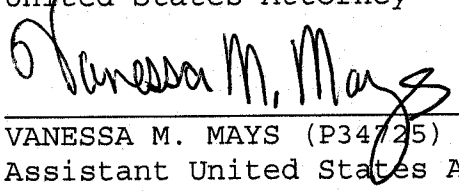
every requirement thereof by ordering the attendance, testimony, and production of the books, papers, records, or other data as is required and called for by the terms of the summons before Revenue Officer Dorothy Miller or any other proper officer or employee of the Internal Revenue Service at such time and place as may be fixed by Revenue Officer Dorothy Miller or any other proper officer or employee of the Internal Revenue Service.

3. That the United States recover its costs in maintaining this action.

4. That the Court grant such other and further relief as is just and proper.

TERRENCE BERG
United States Attorney

By:


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**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

List of Exhibits:

Exhibit A - Declaration of Revenue Officer Dorothy Miller

Exhibit B - Summons issued to Joseph R. Delfgauw

Exhibit C - Last Chance letter to Joseph R. Delfgauw

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

UNITED STATES OF AMERICA,

Petitioner,

v.

JOSEPH R. DELFGAUW,

Respondent.

Civil Action No.

DECLARATION

Dorothy Miller declares:

1. I am a duly commissioned Revenue Officer employed in the Small Business/Self-Employed Division Central Compliance Area of the Internal Revenue Service at 1270 Pontiac Road, Pontiac, Michigan 48340-2238.
2. In my capacity as a Revenue Officer I am conducting an investigation into the collection of the tax liability of Joseph R. Delfgauw for the calendar year ended: December 31, 2004.
3. In furtherance of the above investigation and in accordance with Section 7602 of Title 26, U.S.C., I issued on May 21, 2009, an administrative summons, Internal Revenue Service Form 6637, to Joseph R. Delfgauw to give testimony and to produce for examination books, papers, records, or other data as described in said summons. The summons is attached to the petition as Exhibit B.
4. In accordance with Section 7603 of Title 26, U.S.C., on May 22, 2009, I served an attested copy of the Internal Revenue Service summons described in Paragraph (3) above on the respondent, Joseph R. Delfgauw, by personal delivery as evidenced in the certificate of service on the reverse side of the summons.

EXHIBIT A

5. On June 18 2009, the respondent, Joseph R. Delfgauw, did not appear in response to the summons.
6. On July 10, 2009, Associate Area Counsel for the Internal Revenue Service sent the respondent, Joseph R. Delfgauw, a letter scheduling a last chance appointment for August 4, 2009, at 9:00 a.m. to comply with the summons.
7. On August 4, 2009, the respondent, Joseph R. Delfgauw, did not appear for the scheduled appointment. The respondent's refusal to comply with the summons continues to the date of this declaration.
8. The books, papers, records, or other data sought by the summons are not already in the possession of the Internal Revenue Service.
9. All administrative steps required by the Internal Revenue Code for issuance of a summons have been taken.
10. It is necessary to obtain the testimony and to examine the books, papers, records, or other data sought by the summons in order to investigate the collection of the federal tax liability of Joseph R. Delfgauw for the calendar year ended: December 31, 2004.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 28th day of August 2009.


Dorothy Miller, Revenue Officer



Summons

Collection Information Statement

In the matter of Joseph R Delfgauw

Internal Revenue Service (Identify Division) Small Business / Self Employed

Industry/Area (Identify by number or name) Small Business / Self Employed - Area 22

Periods: December 31, 2004

The Commissioner of Internal Revenue

To: Joseph R. Delfgauw

At: 600 Nairn Circle

You are hereby summoned and required to appear before DOROTHY MILLER, an Internal Revenue Service (IRS) officer, and/or his or her designee, to give testimony and to bring for examination the following information related to the collection of the tax liability of the person identified above for the periods shown:

All documents and records you possess or control regarding assets, liabilities, or accounts held in the taxpayer's name or for the taxpayer's benefit which the taxpayer wholly or partially owns, or in which the taxpayer has a security interest. These records and documents include but are not limited to: all bank statements, checkbooks, canceled checks, saving account passbooks, records or certificates of deposit for the period:

From 05/01/2008 To 05/22/2009

Also include all current vehicle registration certificates, deeds or contracts regarding real property, stocks and bonds, accounts, notes and judgments receivable, and all life or health insurance policies.

IRS will use this information to prepare a Collection Information Statement. We have attached a blank statement to guide you in producing the necessary documents and records.

Do not write in this space

Business address and telephone number of IRS officer before whom you are to appear:

1270 PONTIAC RD, PONTIAC, MI 48340-2238 - (248)874-2253

Place and time for appearance: At 1270 PONTIAC RD, PONTIAC, MI 48340-2238



Department of the Treasury
Internal Revenue Service

www.irs.gov

Form 6637 (Rev.10-2006)
Catalog Number 25000Q

on the 18th day of June, 2009 at 09:00 o'clock A m.

Issued under authority of the Internal Revenue Code this 21st day of May, 2009

Dorothy Miller
DOROTHY MILLER

Signature of issuing officer

REVENUE OFFICER

Title

Signature of approving officer (if applicable)

Title

EXHIBIT B

Original -- to be kept by IRS



Certificate of Service of Summons

(Pursuant to section 7603, Internal Revenue Code)

I certify that I served the summons shown on the front of this form on:

Date <u>May 22, 2009</u>	Time <u>8:10 AM</u>
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How



I handed an attested copy of the summons to the person to whom it was directed.

Summons

Joseph R. DeFgaw

Was



I left an attested copy of the summons at the last and usual place of abode of the person to whom it was directed. I left the copy with the following person (if any).

Served

Signature

Dorothy Miller

Title

Revenue Officer

I certify that the copy of the summons served contained the required certification.

Signature

Title

**DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE**

**OFFICE OF CHIEF COUNSEL
SMALL BUSINESS/SELF-EMPLOYED DIVISION COUNSEL**

**P.O. BOX 330516
DETROIT, MICHIGAN 48232-6516
(313) 237-6400
FAX (313) 237-6445**

JUL 10 2009

Joseph R. Delfgauw
600 Naim Circle
Highland, MI 48357

CC:SB:4:DET:GL- 132458-09
CDSaunders/RLRudick

—
Date Summons served: May 22, 2009
Date required to appear: June 18, 2009

Dear Mr. Delfgauw

The Area Director of your Internal Revenue Service area has notified me that you did not comply with the above summons requiring you to give testimony or produce documents.

Legal proceedings in the United States District Court may be brought against you for your failure to comply. To avoid such proceedings, you should keep the appointment that has been arranged for you with the revenue officer identified below. Please bring to that officer at the date and time shown below, all documents and records specified in the summons and any attachments to the summons.

If you have any questions, please contact the revenue officer at the telephone number below.

Sincerely yours,

RICHARD A WITKOWSKI
Area Counsel

By: 

ROBERT D HEITMEYER
Associate Area Counsel

Appointment

Date: August 04, 2009
Time: 9:00 a m

Revenue Officer

Mrs. Dorothy A Miller
1270 Pontiac Rd

Pontiac, MI 48340
Telephone: 248-874-2253

EXHIBIT 